

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MARIAM DAVITASHVILI, ADAM BEN-SIMON, MIA SAPIENZA, PHILIP ELIADES, JONATHAN SWABY, JOHN BOISI, NATHAN OBEY, and MALIK DREWEY, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

GRUBHUB INC., UBER TECHNOLOGIES, INC., and POSTMATES INC.,

Defendants.

Civ. No. 1:20-cv-03000-LAK

DECLARATION OF EDWARD NORMAND

I, Edward Normand, declare as follows:

1. I am a partner at the law firm Roche Freedman LLP, and counsel for Plaintiffs in this matter. I am fully familiar with the pleadings in this matter and, unless otherwise indicated, I have personal knowledge of the facts herein.

2. I submit this declaration in support of Plaintiffs' Memorandum of Law in Opposition to Defendants' Motions to Compel Arbitration.

3. Based on Plaintiffs' investigation to date, we understand that Grubhub has imposed the contractual provisions on restaurants at issue in this action, or at least substantially similar provisions (the "NPCCs"), since at least 2011. Attached hereto as Exhibit A is a true and correct copy of an article from *Crain's Chicago Business*, dated May 18, 2011, where Grubhub denies

allegations that a consumer “was charged \$1 more for fettuccine alfredo with chicken from the menu on GrubHub’s site than [the restaurant’s] internal menu.”

4. Based on our investigations to date, we further understand that, as of May 18, 2011, Grubhub’s terms of use did not contain an arbitration clause or class action waiver. Attached hereto as Exhibit B is a true and correct copy of Grubhub’s terms of use, as we believe they appeared on Grubhub’s website during that period. Specifically, using the Wayback Machine, we navigated to Grubhub’s homepage as it was captured on May 18, 2011, and then clicked a link to “Legal & Privacy,” which included, among other things, an “Email Opt Out,” “Return Policy,” “Terms of Use,” and “Privacy Agreement.” We reviewed the “Terms of Use,” and found that they did not contain an arbitration provision or class-action waiver.

I declare under penalty of perjury that the above is true and correct.

Dated: New York, New York
September 16, 2022

/s/ Edward Normand
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